

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

ANDRES MASQUEDA SERRANO,  
Plaintiff,  
v.  
ROBERT RUDAS, et al.,  
Defendants.

Case No.: 1:22-cv-00950-KES-CDB  
**ORDER GRANTING DEFENDANT'S  
MOTION FOR ADMINISTRATIVE  
RELIEF**

(Doc. 36)

Plaintiff Andres Masqueda Serrano is proceeding pro se and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds against Defendant Rudas for violations of Plaintiff's constitutional rights.

**I. INTRODUCTION**

On July 10, 2024, the Court issued its Discovery and Scheduling Order. (Doc. 29.)

On November 8, 2024, Defendant filed a motion for administrative relief, seeking an extension of the deadline for the filing of a motion for summary judgment for a failure to exhaust administrative remedies. (Doc. 36.)

**II. DISCUSSION**

***Defendant's Motion for Administrative Relief***

Defendant seeks an extension of the deadline for the filing of a motion for summary judgment based upon exhaustion from November 10, 2024, to December 2, 2024. (Doc. 36 at 2.)

1 Defense counsel declares she has worked diligently to investigate Plaintiff's claims and to  
 2 conduct discovery. (*Id.* at 3, ¶ 3.) She states Plaintiff's August 26, 2024, response to Defendant's  
 3 written discovery was deficient. (*Id.*) Defense counsel met and conferred with Plaintiff on  
 4 September 16, 2024, and received correspondence from Plaintiff on November 8, 2024, but  
 5 Plaintiff did not amend his responses to clarify his claims. (*Id.*, ¶¶ 4-5.)<sup>1</sup> Defense counsel asserts  
 6 Plaintiff's only grievance concerning Defendant complains of a failure to prescribe morphine  
 7 whereas the allegations in Plaintiff's complaint "seem to indicate that he is making a general  
 8 claim against the parties for deficient medical care for his knee condition." (*Id.*, ¶ 6.) Counsel  
 9 declares that although she had hoped to receive clarifying responses to better enable her to  
 10 prepare an exhaustion motion, she "will still be able to prepare an exhaustion motion by the  
 11 requested deadline of December 2, 2024, if the Court grants the request." (*Id.*, ¶ 7.) Counsel  
 12 declares her workload in the three months prior has hindered her ability to make progress on an  
 13 exhaustion motion and provides specifics concerning her other obligations. (*Id.*, ¶ 8.) She states  
 14 this is Defendant's first request for an extension of the relevant deadline, and that it is not made  
 15 for any purpose of harassment, undue delay, or for any improper reason. (*Id.*, ¶ 9.)

16       The Court finds a response by Plaintiff to be unnecessary.

#### 17                  ***Applicable Legal Standards and Analysis***

18       Pursuant to Rule 16(b) of the Federal Rules of Civil Procedure, a scheduling order "may  
 19 be modified only for good cause and with the judge's consent." Fed. R. Civ. P. 16(b)(4). This  
 20 good cause standard "primarily considers the diligence of the party seeking the amendment."  
 21 *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992). The court may modify  
 22 the scheduling order "if it cannot reasonably be met despite the diligence of the party seeking the  
 23 extension." *Id.* If the party was not diligent, the inquiry should end. *Id.*

24       Here, Defendant has established good cause for an extension of the deadline for the filing  
 25 of a motion for summary judgment based upon a failure to exhaust administrative remedies. The  
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27       <sup>1</sup> Defense counsel states she has attached Exhibits A and B to her declaration, however, the Court notes neither  
 28 exhibit was provided with the motion. On November 12, 2024, Defendants filed a Notice of Errata, providing the  
 exhibits omitted in the original motion. (See Doc. 37.)

1 deadline will be extended as requested.

2 **III. CONCLUSION AND ORDER**

3 Accordingly, and for good cause shown, the Court **ORDERS** that:

- 4 1. Defendant's motion for administrative relief (Doc. 36) is **GRANTED**; and  
5 2. The Discovery and Scheduling Order is **MODIFIED** to extend the deadline for filing  
6 a motion for summary judgment based upon a failure to exhaust administrative  
7 remedies from November 10, 2024, to **December 2, 2024**.

8 IT IS SO ORDERED.

9 Dated: November 13, 2024

  
10 UNITED STATES MAGISTRATE JUDGE

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